

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power
Hearing on "The American Energy Initiative: A Focus on EPA's
Greenhouse Gas Regulations"
June 19, 2012
(As Prepared for Delivery)

Today is the 20th day of our hearing on the American Energy Initiative, and this morning we will focus on the Environmental Protection Agency's greenhouse gas regulations.

I would note that we did invite EPA to testify, and while they couldn't make it today, we will be hearing from them later this month, on the 29th.

At a time of chronically high unemployment, the last thing job creating industries need is more red tape. But that is precisely what EPA is imposing on the economy with its greenhouse gas regulations. Since 2009, EPA has already published in the Federal Register more than 1,800 pages of final rules relating to greenhouse gases, and more than 700 pages of proposed rules are pending.

EPA's greenhouse gas regulations range from rules setting new emissions standards for cars and trucks, to complex permitting requirements for donut factories and farmers, to rules affecting power plants.

These GHG rules are a regulatory overreach and serve as a backdoor cap and tax policy that Congress has already rejected. Any action regarding climate change should rest with Congress and not unelected and unaccountable bureaucrats at the Environmental Protection Agency.

And it isn't just Congressional Republicans who think EPA is overreaching. An increasing number of federal judges do too.

In the recent Sackett decision, the Supreme Court unanimously rejected EPA's efforts to deny due process to landowners. Justice Alito concluded that, "The position taken in this case by the Federal Government...would have put the property rights of ordinary Americans entirely at the mercy of the Environmental Protection Agency." He further said that, "In a nation that values due process, not to mention private property, such treatment is unthinkable."

In the recent Luminant case, the Fifth Circuit Court of Appeals rejected EPA's attempts to disapprove a Texas permit program, and said that the Obama EPA's disapproval was based on "purported nonconformity with three extra-statutory standards that the EPA had created out of whole cloth."

In the recent Spruce Mine decision, a federal judge rejected the Obama EPA's unprecedented attempt to invalidate a West Virginia coal mining permit. The court called EPA's rationale "magical thinking" and "a stunning power for an agency to arrogate to itself."

Other major court decisions are pending and we will see what the courts hold, but I see a trend of holdings about "magical thinking."

The most recent example of overreaching is EPA's proposed GHG NSPS rule for new coal-fired power plants. EPA contends that the rule has no cost because no one was going to build a coal plant in this country anyway because natural gas is so cheap today.

Five lawsuits filed last week beg to differ and we have a witness here today who will testify that they are trying to build a new coal-fired power plant in Kansas, and that it is EPA regulations that are preventing that company's project from going forward. That witness testifies that EPA's proposed greenhouse gas standards will effectively block its planned project, and the \$70 million dollars invested in that project, and the years spent obtaining the requisite federal permits, will be wasted if EPA's proposed NSPS rule for power plants is allowed to stand.

It is an EPA-fulfilled prophecy that no new coal plants will be built in this country. And on our current path, it appears to be an Obama Administration fulfilled-prophecy that electricity prices will necessarily skyrocket. It's simply not acceptable and I will continue to work tirelessly with my colleagues to stop these policies that hurt jobs and will increase consumer electricity prices.

I appreciate all witnesses being here today and look forward to the testimony.

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